

RESPONSE under 37 C.F.R. § 1.116  
U.S. Appln. No. 09/773,682

### **REMARKS**

Claims 33-52 were are all the claims pending in the application and stand finally rejected. By this Amendment, Applicant cancels all previous claims and presents new claims 53-72 to address numbering inconsistencies in the previous claims noted by the Examiner. Reconsideration and allowance of all pending claims are respectfully requested in view of the foregoing amendments and following remarks.

### **CLAIM OBJECTIONS.**

The Office Action objects to the previous claims under 37 C.F.R. § 1.126 as not complying with the requirements for claim numbering. Notably, the Office Action cites claim numbering inconsistencies and/or duplicated numbers. By this amendment, Applicant cancels all previous claims and adds new claims 53-72 to address this objection. In view thereof, reconsideration of this objection is respectfully requested. No new matter or limitations requiring additional consideration have been added by way of the foregoing amendments and thus entry in accordance with after-final regulations of 37 C.F.R. § 1.116 is believed to be in order.

### **CLAIM REJECTIONS.**

#### **35 U.S.C. § 102 and 103**

Previously pending claims 33-52 were rejected under 35 U.S.C. § 102(e) as being anticipated by, or in the alternative under 35 U.S.C. § 103(a) as being unpatentable over, U.S. Patent Application 2002/0049806 to Gatz et al. (hereinafter Gatz). Applicant respectfully traverses these rejections for the following reasons.

Gatz has an effective priority date of May 16, 2000 (U.S. Provisional Application 60/204,910). Applicant however conceived and diligently reduced to practice the invention of

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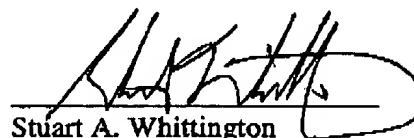
the instant application prior to the Gatz priority date as shown by the inventor declaration under 37 C.F.R. § 1.131 and supporting evidenced attached hereto as Appendix A. Accordingly, Applicant believes Gatz is not considered prior art within the meaning of 35 U.S.C. § 102 and thus the §102 and §103 rejections relying on Gatz should be withdrawn. The attached declaration was not earlier presented as Gatz was not previously cited in the record. Accordingly, entry of this amendment including the 1.131 declaration is believed proper in accordance with after-final practice of 37 C.F.R. § 1.116.

In view of the foregoing, reconsideration and withdrawal of the §102 and §103 rejections based on Gatz are respectfully requested.

**CONCLUSION.**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below. Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee or deficiency thereof, except for the Issue Fee, is to be charged to **Deposit Account # 50-0221.**

Respectfully submitted,

  
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c/o  
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Date: January 11, 2006